

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON

UNITED STATES OF AMERICA

v.

CRIMINAL ACTION NO. 2:15-00075

JOSHUA NEAL McVEY

SUPERVISED RELEASE REVOCATION AND JUDGMENT ORDER
MEMORANDUM OPINION AND ORDER

On July 17, 2019, the United States of America appeared by Andrew Tessman, Assistant United States Attorney, and the defendant, Joshua Neal McVey, appeared in person and by his counsel, John Balenovich, for a hearing on the petition seeking revocation of supervised release and amendment thereto submitted by United States Probation Officer Dylan Shaffer. The defendant commenced a three-year term of supervised release in this action on January 11, 2019, as more fully set forth in the Judgment Including Sentence Under the Sentencing Reform Act entered by the court on February 1, 2016.

The court heard the admissions of the defendant and the representations and argument of counsel.

For reasons noted on the record of this proceeding, which are ORDERED incorporated herein by reference, the court found by a preponderance of the evidence that the defendant has violated the conditions of supervised release in the following respects: (1) the defendant failed to submit a truthful and complete written report within the first five days of each month, having failed to submit a report for the months of March, April, and May 2019; (2) the defendant unlawfully used illicit controlled substances, as reflected in urine samples which tested positive for methamphetamine on February 8, 2019, April 18, 2019, and June 10, 2019, and amphetamine on February 8, 2019, and April 18, 2019, and the defendant having admitted to the consumption of methamphetamine the week prior to June 10, 2019; and (3) the defendant failed to submit to random urinalysis and failed to participate in a substance abuse program as directed by the probation officer, in that he failed to attend individual substance abuse counseling as directed for the months of January, February, March, and April of 2019, and failed to attend intensive outpatient substance abuse group counseling as instructed on each of April 1, 3, 5, 8, 10 and 19, 2019, and was thereafter discharged from the group counseling program on May 13, 2019 for, among other things, poor

attendance, and furthermore failed to submit urine screens as instructed by the probation officer on each of February 27, March 14, April 3, May 8, and May 17, 2019; all as admitted by the defendant on the record of the hearing and as set forth in the petition on supervised release.

And the court finding, as more fully set forth on the record of the hearing, that the violations warrant revocation of supervised release and, further, that it would unduly depreciate the seriousness of the violations if supervised release were not revoked, it is ORDERED that the supervised release previously imposed upon the defendant in this action be, and it hereby is, revoked.

And the court having complied with the requirements of Rule 32(a)(1)(B) and (C) of the Federal Rules of Criminal Procedure, and finding, after considering the factors set forth in 18 U.S.C. § 3583(e), that the defendant should be confined to the extent set forth below, it is accordingly ORDERED that the defendant be, and he hereby is, committed to the custody of the United States Bureau of Prisons for imprisonment for a period of TWELVE (12) MONTHS AND ONE DAY, to be followed by a two year less one day term of supervised release under the same conditions as heretofore, with the additional condition that the

defendant make himself available for drug abuse treatment and counseling as directed by the probation officer.

The defendant was remanded to the custody of the United States Marshal.

The Clerk is directed to forward copies of this written opinion and order to the defendant, all counsel of record, the United States Probation Department, and the United States Marshal.

DATED: July 18, 2019


John T. Copenhaver, Jr.
Senior United States District Judge